

Message Text

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ACTION ARA-14

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EB-08 PM-05 SSO-00 INRE-00 /057 W
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O 162315Z AUG 77
FM AMEMBASSY PANAMA
TO SECSTATE WASHDC IMMEDIATE 3205

C O N F I D E N T I A L SECTION 1 OF 3 PANAMA 5859

STADIS////////////////////////////////

FOR S/AB, L AND ARA/PAN FROM CHESTER AND KOZAK

EO 11652: GDS
TAGS: PBOR, PN
SUBJECT: PANAMA CANAL TREATY NEGOTIATIONS

1. WE HAVE TAKEN UP WITH PANAMA THE ARTICLES ON PORTS AND ON
CIVILIAN EMPLOYMENT. DISCUSSIONS ARE CONTINUING, BUT WE WOULD
APPRECIATE, ON A PRIORITY BASIS, YOUR COMMENTS, COORDINATED
WITH DOD ON THE FOLLOWING ITEMS:

A) CIVILIAN EMPLOYMENT: IN CIVILIAN EMPLOYMENT ARTICLE PANAMA
PROPOSED, PURSUANT TO WHAT THEY UNDERSTOOD TO BE AGREEMENT ON
CONCEPT REACHED WITH AMBASSADOR LINOWITZ, A SENTENCE TO THE
EFFECT THAT THE U.S. WOULD RECOGNIZE SKILLS AND QUALI-
FICATIONS RECOGNIZED BY PANAMA. AFTER MUCH DISCUSSION WE PROPOSED,
THE FOLLOWING LANGUAGE: "IN ESTABLISHING SUCH STANDARDS FOR
SKILLS AND QUALIFICATIONS, TO THE EXTENT THEY INCLUDE A REQUIRE-
MENT FOR A PROFESSIONAL LICENSE, THE UNITED STATES SHALL RECOG-
NIZE THE PROFESSIONAL LICENSES ISSUED BY THE REPUBLIC OF
PANAMA WITHOUT PREJUDICE TO ITS RIGHT TO REQUIRE ADDITIONAL
PROFESSIONAL SKILLS AND QUALIFICATIONS. THIS SENTENCE WOULD
BE INSERTED AT THE END OF PARAGRAPH 3 AND APPEARS
ACCEPTABLE TO PANAMA. CAN WE LIVE WITH IT, OR WITH SOME-
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THING SIMILAR?

B) ANOTHER LONG DISCUSSION FOLLOWED CONCERNING PARAGRAPH 7.
THE PANAMANIAN'S NOW FEEL, THAT IN ORDER TO "SAVE FACE," THEY
MUST DELETE "IN THE REPUBLIC OF PANAMA" OR OTHERWISE
MODIFY THE FIRST SENTENCE TO INDICATE THAT PANAMA WOULD NOT
BE THE ONLY PLACE WE COULD OR WOULD PLACE U.S. CITIZENS.

WE TRIED A NUMBER OF IDEAS BUT COULD NOT SATISFY BOTH SIDES. WE THEREFORE SUGGESTED THE POSSIBILITY OF DELETING "THE REPUBLIC OF PANAMA" AND ADDING "ACCORDANCE WITH THE CIVIL SERVICE LAWS OF THE UNITED STATES." THEY TENTATIVELY INDICATED THIS WOULD BE SUFFICIENT TO "SAVE FACE."

C) IN PARAGRAPH 5, PANAMA PROPOSED AND WE ACCEPTED DELETION OF WORD "BASIC" BEFORE WAGES ON GROUNDS THAT IT IS UNNECESSARY GIVEN SECOND SENTENCE OF PARAGRAPH. MORE DIFFICULT WAS THEIR INSISTENCE ON INSERTING "FRINGE BENEFITS AND LABOR BENEFITS" AFTER "WAGES". AFTER MUCH DISCUSSION OF DIFFERENCES IN FRINGE BENEFITS AND LABOR BENEFITS BETWEEN LOCAL HIRES AND PERSONS RECRUITED FROM OUTSIDE PANAMA, WE PROPOSED SUBJECT TO CONSULTATION WITH WASHINGTON, THAT FIRST SENTENCE BE MODIFIED PER PANAMA'S PROPOSAL AND THAT SECOND SENTENCE BE SIMILARLY MODIFIED BY INSERTING AFTER "RENUMERATIONS" "OR THE PROVISION OF OTHER SUCH ADDITIONAL BENEFITS, SUCH AS HOME LEAVE BENEFITS..." PANAMA HAS ACCEPTED THIS FORMULA AND IS AWAITING OUR CONFIRMATION OF ITS ACCEPTABILITY TO U.S.

D) PORTS: PANAMA IS REVIEWING OUR NEW PORTS AND RAILROAD DRAFT ARTICLE ONCE MORE, BUT THEY INDICATE AGREEMENT ON THE CONCEPTS AND IN GENERAL ON THE LANGUAGE. THE CHANGES FROM ORIGINAL U.S. DRAFT ARE BASED ON COMMENTS FROM CANO. PLEASE ASK DOD TO REVIEW DRAFT ESPECIALLY CARE-CONFIDENTIAL

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FULLY, PARTICULARLY PARAGRAPH 2(C) AND 2(D), WHICH CARROLL REVIEWED HURRIEDLY IN PANAMA. WOULD APPRECIATE GUIDANCE AS TO WHETHER "PROTECTION AND DEFENSE" ARE NECESSARY IN PARAGRAPH 2(C). CANO SAYS THAT WAS NOT PART OF THE AGREEMENT. OTHER SIGNIFICANT CHANGES ARE THE DELETION OF OLD PARAGRAPH 3, (THE CONTENT OF THAT PARAGRAPH HAS BEEN INCLUDED IN NEW PARAGRAPH 4(B)), AND THE REWORDING OF PARAGRAPHS 4(C) AND 4(D). TEXT FOLLOWS:

BALBOA AND CRISTOBAL PORTS AND THE PANAMA RAILROAD

1. IN ACCORDANCE WITH ARTICLE----- OF THIS TREATY, ALL RIGHT, TITLE AND INTEREST OF THE UNITED STATES OF AMERICA IN THE PROPERTY, INSTALLATIONS AND EQUIPMENT IN THE PORTS OF BALBOA AND CRISTOBAL, THE BOUNDARIES OF WHICH ARE SET FORTH IN PARAGRAPH 1 OF ANNEX C OF THIS AGREEMENT, IS TRANSFERRED WITHOUT CHARGE TO THE REPUBLIC OF PANAMA.

2. THE REPUBLIC OF PANAMA SHALL HAVE THE RESPONSIBILITY FOR THE ADMINISTRATION, OPERATION AND MAINTENANCE OF THE PORTS OF BALBOA AND CRISTOBAL, THE BOUNDARIES OF

WHICH ARE SET FORTH IN PARAGRAPH ONE OF ANNEX C OF THIS AGREEMENT, SUBJECT, HOWEVER, TO THE FOLLOWING TERMS AND CONDITIONS:

A) THE REPUBLIC OF PANAMA SHALL EXERCISE ALL JURIS-
DICATIONAL RIGHTS OVER VESSELS WITHIN THE LANDS AND WATERS
AREAS OF THE PORTS OF BALBOA AND CRISTOBAL. MOVEMENT OF
VESSELS TO OR FROM THE PIERS AND DOCKS OF THE PORTS OF
BALBOA AND CRISTOBAL SHALL BE SUBJECT TO APPROPRIATE JURIS-
DICTIONAL APPROVAL BY THE PORT AUTHORITIES OF THE REPUBLIC
OF PANAMA.

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C O N F I D E N T I A L SECTION 2 OF 3 PANAMA 5859

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B) THE REPUBLIC OF PANAMA, AS A MATTER OF TECHNICAL
ADMINISTRATION AND WITHOUT PREJUDICE TO ITS JURISDICTION
AS TERRITORIAL SOVEREIGN, AGREES THAT THE AUTHORITY AND
RESPONSIBILITY OF THE UNITED STATES FOR ALL MATTERS RELATING
TO MARINE TRAFFIC CONTROL OF VESSELS WITHIN THE WATERS OF
THE CANAL OPERATING AREA AND DEFENSE SITES SHALL EXTEND
TO THE MOVEMENT OF VESSELS WITHIN THE PORTS OF BALBOA AND
CRISTOBAL, AND TO OR FROM AND WITHIN THE ANCHORAGES AND
EMERGENCY BEACHING AREAS. SUCH AUTHORITY AND RESPONSIBILITY
OF THE UNITED STATES INCLUDES THE RIGHT TO REQUIRE THAT
VESSELS MOVING IN SUCH WATERS BE UNDER THE DIRECTION OF
COMMISSION PILOTS.

C) THE UNITED STATES MAY USE, FOR THE ADMINISTRATION,
OPERATION AND MAINTENANCE (PROTECTION AND DEFENSE) OF THE
CANAL, THOSE PORT INSTALLATIONS AND EQUIPMENT ADMINISTERED,
OPERATED, AND MAINTAINED BY THE REPUBLIC OF PANAMA WHICH
ARE DESCRIBED IN PARAGRAPH 2 OF ANNEX C OF THIS AGREEMENT.
THE REPUBLIC OF PANAMA SHALL MAINTAIN SUCH PORT INSTAL-

LATIONS AND EQUIPMENT IN EFFICIENT OPERATING CONDITION,
AND MAY DISPOSE OF THEM ONLY WITH THE AGREEMENT OF THE UNITED
STATES.

D) THE UNITED STATES IS GUARANTEED USE OF THE PORT
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INSTALLATIONS DESCRIBED IN PARAGRAPH 3 OF ANNEX C OF THIS
AGREEMENT FOR NORMAL MAINTENANCE OF ITS EQUIPMENT, IN ACCORD-
ANCE WITH SCHEDULES ESTABLISHED BY THE PANAMA CANAL COM-
MISSION OR, WHEN NECESSARY FOR EMERGENCY REPAIRS, AT ANY
TIME. THE UNITED STATES MAY USE ITS EMPLOYEES TO PERFORM
SERVICES IN SUCH INSTALLATIONS. UNITED STATES USE OF SUCH
INSTALLATIONS AND EQUIPMENT SHALL BE FREE OF COST OTHER
THAN REIMBURSEMENT FOR LABOR AND SERVICES PROVIDED TO THE
UNITED STATES AT RATES WHICH SHALL NOT EXCEED THOSE CHARGED
THE MOST FAVORED CUSTOMER.

E) IN ORDER TO FACILITATE THE OPTIMUM SCHEDULING OF
CANAL TRANSITS, THE REPUBLIC OF PANAMA SHALL ENSURE THAT
VESSELS TRANSITING THE CANAL RECEIVE PORT SERVICES AT BALBOA
AND CRISTOBAL ON A PRIORITY BASIS.

F) THE REPUBLIC OF PANAMA SHALL CONTROL AND SUPER-
VISE THE ACTIVITIES TO BE CARRIED OUT UNDER ITS RESPON-
SIBILITY IN THE PORTS OF BALBOA AND CRISTOBAL TO ENSURE
THAT SUCH ACTIVITIES ARE COMPATIBLE WITH THE EFFICIENT
MANAGEMENT, OPERATION, MAINTENANCE, OR PROTECTION AND
DEFENSE OF THE CANAL. THE REPUBLIC OF PANAMA SHALL TAKE
THE MEASURES NECESSARY TO PREVENT, OR TO TERMINATE, ANY
ACTIVITY THAT IS INCOMPATIBLE WITH SUCH PURPOSES.

G) IN THE EVENT OF EMERGENCIES RELATING TO THE PRO-
TECTION AND DEFENSE OF THE CANAL, THE REPUBLIC OF PANAMA
SHALL, AT THE REQUEST OF THE UNITED STATES, MAKE THE
INSTALLATIONS AND EQUIPMENT OF THE NAVAL INDUSTRIAL RESERVE
SHIPYARD AVAILABLE, WITHOUT DELAY, TO THE UNITED STATES
FOR AS LONG AS MAY BE NECESSARY IN VIEW OF THE EMERGENCY.
IN ANY SUCH CASE, THE UNITED STATES WILL REIMBURSE THE
REPUBLIC OF PANAMA FOR LABOR OR SERVICES PROVIDED TO IT
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AT RATES WHICH SHALL NOT EXCEED THOSE CHARGED THE MOST
FAVORED CUSTOMER.

3. IN ACCORDANCE WITH ARTICLE OF THIS TREATY,

ALL RIGHT, TITLE AND INTEREST OF THE UNITED STATES IN THE PROPERTY, INSTALLATIONS AND EQUIPMENT OF THE PANAMA RAILROAD IS TRANSFERRED WITHOUT CHARGE TO THE REPUBLIC OF PANAMA. THE REPUBLIC OF PANAMA SHALL HAVE THE RESPONSIBILITY FOR THE MANAGEMENT, OPERATION, AND MAINTENANCE OF THE PANAMA RAILROAD SUBJECT, HOWEVER, TO THE FOLLOWING TERMS AND CONDITIONS:

A) THE REPUBLIC OF PANAMA SHALL MAINTAIN THE RAILROAD IN EFFICIENT OPERATING CONDITION. THE RAILROAD WILL CONTINUE TO PROVIDE THE LEVELS AND FREQUENCY OF SERVICE NECESSARY FOR EFFICIENT ADMINISTRATION, OPERATION, AND MAINTENANCE, AND EFFECTIVE PROTECTION AND DEFENSE OF THE CANAL.

B) THE UNITED STATES SHALL HAVE THE RIGHT TO USE AND MAINTAIN THE EXISTING 44KV ELECTRICAL TRANSMISSION LINES AND TOWERS, AND TO CONSTRUCT, USE AND MAINTAIN ADDITIONAL UTILITIES ALONG THE RAILROAD RIGHT OF WAY, AND MAY HAVE ACCESS THERETO FOR SUCH PURPOSES.

C) THE REPUBLIC OF PANAMA SHALL PERMIT THE UNITED STATES TO USE THE RAILROAD AND ITS EQUIPMENT, ON A PRIORITY BASIS, FOR THE PURPOSES OF MAINTAINING SUCH TRANSMISSION LINES AND OTHER UTILITIES, AND OF TRANSPORTING EQUIPMENT, SUPPLIES AND PERSONNEL RELATED TO THE ADMINISTRATION, OPERATION, MAINTENANCE, OR PROTECTION AND DEFENSE OF THE CANAL. THE UNITED STATES SHALL PAY THE COSTS RESULTING FROM SUCH USE IN ACCORDANCE WITH RATES WHICH SHALL NOT EXCEED THOSE CHARGED BY THE RAILROAD TO ITS MOST FAVORED CUSTOMER.

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D) SPUR TRACKS, SIDINGS AND RELATED EQUIPMENT SERVICE INSTALLATIONS IN AREAS MADE AVAILABLE TO THE UNITED STATES PURSUANT TO THE PANAMA CANAL TREATY SHALL REMAIN THE RESPONSIBILITY OF THE UNITED STATES. RAILROAD ACCESS TO SUCH TRACKAGE SHALL BE SUBJECT TO THE APPROVAL OF THE RESPONSIBLE UNITED STATES AUTHORITIES.

E) IF THE GOVERNMENT OF THE REPUBLIC OF PANAMA DECIDES, AT ANY TIME, THAT ITS CONTINUED OPERATION OF THE RAILROAD AT THE MINIMUM LEVELS OF SERVICE AGREED UPON BY THE TWO GOVERNMENTS IS NO LONGER VIABLE, THE UNITED STATES SHALL HAVE THE RIGHT TO REASSUME MANAGEMENT AND OPERATION OF THE RAILROAD.

4. A JOINT PORTS AND RAILROAD COMMITTEE, TO BE ESTABLISHED AS A SUBCOMMITTEE OF THE COORDINATING COMMITTEE

IN ACCORDANCE WITH PARAGRAPH 3 OF ARTICLE III OF THIS AGREEMENT, SHALL BE RESPONSIBLE INTER ALIA FOR COORDINATION OF THE ACTIVITIES OF THE PANAMA CANAL COMMISSION AND THE NATIONAL PORT AUTHORITY OF THE REPUBLIC OF PANAMA CONCERNING THE OPERATION OF THE PORTS OF BALBOA AND CRISTOBAL AND THE PANAMA RAILROAD, AND SHALL HAVE THE FOLLOWING FUNCTIONS:

A) THE CONSIDER AND, UPON AGREEMENT, TO COORDINATE THE TERMINATION OF UNITED STATES RIGHTS WITH RESPECT TO THE USE OF AREAS OR INSTALLATIONS IN, OR IN THE VICINITY OF, THE PORTS OF BALBOA AND CRISTOBAL WHICH THE REPUBLIC OF PANAMA MIGHT DESIRE TO USE FOR PORT ACTIVITIES, OR WITH RESPECT TO THE USE OF AREAS AND INSTALLATIONS APERTAINING TO THE RAILROAD;

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B) TO CONSIDER, AND UPON AGREEMENT, TO COORDINATE ANY CHANGE IN THE USE OF LANDS OR WATERS IN THE PORTS OR IN AREAS OR INSTALLATIONS APERTAINING TO THE RAILROAD, OR ANY INITIATION OF, CHANGE IN OR TERMINATION OF PORT OR RAILROAD SERVICES. CONSEQUENTLY CHANGES IN THE USE OF SUCH LANDS AND WATERS AND THE INITIATION OF, CHANGES IN OR TERMINATION OF SUCH SERVICES SHALL OCCUR ONLY IN ACCORDANCE WITH THE DECISIONS REACHED BY THE JOINT PORTS AND RAILROAD COMMITTEE.

C) TO MAINTAIN ADEQUATE STANDARDS OF SECURITY, FIRE PREVENTION AND OIL POLLUTION. UNTIL SUCH TIME AS THE COMMITTEE ISSUES NEW REGULATIONS, THE SECURITY, FIRE PREVENTION AND OIL POLLUTION STANDARDS IN FORCE PRIOR TO THE ENTRY INTO FORCE OF THIS AGREEMENT SHALL REMAIN IN FORCE.

D) TO ESTABLISH PROCEDURES AND MECHANISMS TO FACILITATE THE MOVEMENT OF VESSELS IN ACCORDANCE WITH THE RIGHTS AND RESPONSIBILITIES OF THE PARTIES IN PARAGRAPH 1(A) ABOVE.

E) TO COORDINATE THE USE BY THE UNITED STATES OF THOSE INSTALLATIONS SPECIFIED IN PARAGRAPH 1(B) OF ANNEX A THAT ARE LOCATED WITHIN THE PORTS OF BALBOA AND CRISTOBAL.

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IN CONSIDERING THESE MATTERS, THE REPRESENTATIVES OF THE TWO GOVERNMENTS ON THE JOINT PORTS AND RAILROAD COMMITTEE SHALL BE GUIDED BY THE PRINCIPLE THAT THE OPERATION OF THE PORTS AND RAILROAD SHALL BE CONSISTENT WITH THE CONTINUED EFFICIENT MANAGEMENT, OPERATION, MAINTENANCE, PROTECTION AND DEFENSE OF THE CANAL.

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